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S E C R E T SECTION 01 OF 02 MANAMA 001665

SIPDIS

STATE FOR NEA/ARPI, S/CT, DS

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TAGS: [PTER](#) [ASEC](#) [PREL](#) [BA](#)

SUBJECT: AMBASSADOR DELIVERS DEMARCHE ON U.S. CONCERNS OVER
RELEASE OF TERROR SUSPECTS

REF: A. STATE 234462

[B](#). MANAMA 1657

Classified by Ambassador William T. Monroe for reasons 1.4
(b) and (d).

Summary

[1](#)1. (S) The Ambassador November 2 delivered Ref A demarche to Minister of State for Foreign Affairs Abdul Ghaffar and Minister of Industry (and confidant of the King) Fakhro. He also spoke with Minister of Justice Al Arrayed and President of the Court of Cassation Shaikh Khalifa Al Khalifa. Abdul Ghaffar expressed his surprise that the four terror suspects had been released, but noted that the GOB would conduct tight 24-hour surveillance. They might be released, "but they are not free," he said. They will be back in court on December [1](#)6. Abdul Ghaffar said that the current situation was very different from that of last June, noting that the government had detained the suspects for almost four months, the police had conducted an investigation, and the suspects were now facing criminal charges in court. Minister Fakhro told the Ambassador that the King had personally ordered round-the-clock surveillance, and added that the government would have liked nothing more than to keep the suspects in prison. Minister Al Arrayed explained the nature of the criminal charges lodged against the four, and Shaikh Khalifa explained that one of the defense attorney's challenge of the charges on constitutional grounds held no water. He admitted that the case against the suspects remained weak due to lack of evidence. End Summary.

[1](#)2. (S) The Ambassador November 2 delivered Ref A demarche on U.S. concerns over the release of the four terror suspects to Minister of State for Foreign Affairs Mohammed Abdul Ghaffar. The Ambassador also conveyed our concerns that the judge's decision to release the defendants came without prior warning. The release had surprised and shaken us. As a result, the U.S. could lose confidence in Bahrain as a partner in the fight against terrorism.

24-Hour Surveillance

[1](#)3. (S) Abdul Ghaffar stated that he also was surprised that the judge released the suspects, but said it was the judge's decision alone, and not that of the GOB. The judicial branch was independent in Bahrain and the government was not permitted to intervene. He promised the security services would conduct tight 24-hour surveillance of the four, stating they "were released, but are not free."

[1](#)4. (S) He noted that there were significant differences between this release and that of last June. There is a court case under way, the suspects had been held in prison for three and a half months, the police had conducted a thorough investigation, and the defendants had been charged with violations of the penal code. (Note: Articles 155 and 157. End Note.) They will return to court on December 6, the date of the next hearing. Abdul Ghaffar said the government intends to win the case, and the four will "remain in jail for years."

Bahrain Committed to Working Closely with USG

[1](#)5. (S) Abdul Ghaffar stated that he had spoken with a Bahrain National Security Agency (BNSA) official before the meeting with the Ambassador, and the official had assured him that the BNSA had kept the USG informed at every stage of the investigation. The USG had seen all the evidence against the four. He emphasized that the GOB was committed to working closely with the U.S. against terrorism, and said that any possible future terrorist incident in Bahrain would first and foremost harm Bahrain's interests. The GOB would not allow that to occur.

[1](#)6. (S) The Ambassador reiterated our deep concern that the four were back on the street and stressed that surveillance

must be thorough. We were worried that the four might try to reestablish contact with their friends outside of Bahrain. Abdul Ghaffar agreed and assured the Ambassador that Bahrain would do all it could to stay on top of the four.

King Watching Closely

17. (S) The Ambassador also delivered the demarche to Minister of Industry (and confidant to the King) Hassan Fakhro, stressing the importance of this issue to the U.S. and the possible negative ramifications if the case was not handled properly. Fakhro said the government was well aware of the seriousness of the issue, and noted that the King had personally issued instructions ordering that the four released suspects be watched day and night. The head of the BNSA had told him last night that the four had been followed from the moment they left the courthouse. He said there is nothing the government would have liked better than to keep them in prison, but added the rule of law is also important to both the U.S. and Bahrain.

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Charges of Damaging Public Property, Conspiracy
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18. (S) Separately, the Ambassador met with Minister of Justice Jawad Al Arrayed and President of the Court of Cassation (Supreme Court) Shaikh Khalifa bin Rashid Al Khalifa to express our concerns and to seek clarification on the status of the legal proceedings. Minister Al Arrayed said that the four had been charged under two articles of the penal code: 155 and 157. Article 155 calls, inter alia, for punishment of imprisonment for persons who intentionally vandalize public properties. This would be used, he said, for the defendants, destruction of microphones in their jail. "We are trying to find anything against them," he said. Article 157 calls for imprisonment for persons who take part in an agreement which aims at committing one of the felonies listed in Article 155. (Note: This is the way the current penal code addresses the charge of conspiracy, which remains the core charge. End Note.)

19. (S) The Ambassador asked about the December 6 court date. Shaikh Khalifa said that one of the defense lawyers was seeking dismissal of the charges on the grounds that Article 157 was unconstitutional, and this would be heard on December 16. He said that there were absolutely no grounds for this, and in fact the two other defense lawyers agreed. It was possible that the defense lawyer could appeal a negative court decision, but Shaikh Khalifa was the ultimate point of appeal, and his position was clear. Nonetheless, Shaikh Khalifa conceded, it was not certain that the case would actually go to trial on December 6, pending further appeal.

Evidentiary Case Remains Weak

10. (S) Shaikh Khalifa brought with him a four-inch thick folder of documents, including, he said, 450 pages of interrogations, to support the prosecution. Nonetheless, he said, the case remains weak. There is no confession, and no specific, concrete crime to ask about. Minister Al Arrayed stressed that the government is concerned about the case at the highest level. "They are our enemies as much as they are your enemies," he stated. But it will be important to play the case just right. He expressed confidence that the case was under control.

Comment

11. (S) With the release of the four suspects, we should not lose sight of the fact that the government held the suspects for almost four months, conducted an investigation including interrogation of the suspects, and will pursue a legal case against them. The defendants and their lawyers, nevertheless, are depicting the November 1 decision as a clear victory for them and are suggesting it portends confirmation of their innocence. The government is telling us they will pursue the case to its proper conclusion while maintaining tight surveillance on the suspects. Our task will be to impress upon the GOB at all levels the crucial importance of doing just that.

MONROE